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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE erwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. 09/202,838 Application Number TRANSMITTAL **Filing Date** 1/21/2001 2001 **FORM** AUG 0 First Named Inventor Verdaguer (to be used for all correspondence after initial filing) Group Art Unit TECH CENTER 1600/2900 1631 S. Zhou **Examiner Name** Total Number of Pages in This Submission Attorney Docket Number TSRI 504.1 **ENCLOSURES** (check all that apply) Assignment Papers (for an Application) After Allowance Communication Fee Transmittal Form to Group Appeal Communication to Board Fee Attached Drawing(s) of Appeals and Interferences Licensing-related Papers Appeal Communication to Group Amendment / Reply (Appeal Notice, Brief, Reply Brief) Petition After Final Proprietary Information Petition to Convert to a Affidavits/declaration(s) Provisional Application Status Letter Power of Attorney, Revocation Change of Correspondence Other Enclosure(s) (please Extension of Time Request Address identify below): - Response to Restriction Terminal Disclaimer **Express Abandonment Request** Requirement Request for Refund postcard Information Disclosure Statement CD, Number of CD(s)\_ Certified Copy of Priority Document(s) Remarks Response to Missing Parts/ Incomplete Application Response to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Emily Holmes Individual name Signature Date 7/27/2001 CERTIFICATE OF MAILING I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class

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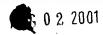
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF MAILING

I hereby certify that this RESPONSE TO RESTRICTION REQUIREMENT and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date indicated below with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Ariel Fletcher

Date of Deposit

8/1/9

Applicant: Verdaguer, et al.

Serial No.: 09/202,838

) Group Art Unit: 1631

Filed: January 21, 2000

) Examiner: S. Zhou

Title: CASSAVA VEIN MOSAIC VIRUS

PROMOTERS AND USES THEREOF

) Our Ref.: TSRI 504.1

## RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents Washington, D.C. 20231

Dear Sir:

This communication is in response to the Restriction Requirement mailed June 27, 2001 (Paper No. 11). The response is filed within the extension-free period thus making this response a timely filing.

The Examiner has indicated in the Action that pending claims 1-15 comprise four different groups of inventions for purposes of examination. The Examiner argues that the separate groups are required because the polynucleotide sequence claimed in Group I is not novel over a published GenBank sequence of the complete nucleotide sequence of Cassava vein mosaic virus (CaMV). Applicants respectfully traverse the Restriction Requirement and submit that the restriction on this basis is not proper as the invention claimed in Group I is novel, is generic in scope and provides the special technical feature linking the four described groups. Applicants further submit that the Examiner is incorrect

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in stating that the promoter sequence as presently generically claimed is not novel in view of the GenBank sequence.

Applicants, however, defer any argument on the basis of novelty until an appropriate response to a PTO Action where statutory rejections to claims are made. For the present Action,

Applicants contend that a more appropriate grouping of inventions is to define the claims as one group with a requirement to elect a species of CaMV promoter in the event that the generic claims are not held to be allowable.

However, in view of the present restriction by the Examiner and to be responsive to the present restriction, Applicants elect, with traverse, group I as it is currently defined that includes claims 1-9 having a CaMV promoter sequence as defined in claim 1.

The Examiner has also indicated that if one of groups I-IV is elected, Applicants are required to elect a species of a particular promoter sequence. In the event that the generic claim is not held to be allowable, Applicants elect the species of pA (SEQ ID NO 3).

Please enter the above-identified response to Restriction Requirement.

Respectfully submitted,

Date Date

Emily Holmes Peg No. 40 652

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